



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

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Ms. Connie King, Chair
Water Quality Control Commission
4300 Cherry Creek Drive South
Denver, CO 80222-1530

Subject: EPA Comments on the Proposed Revisions to
the Classifications and Standards for the Animas River,
San Juan Basin, 3.4.0 (5 CCR 1002-8).

Dear Ms. King:

The purpose of this letter is to provide specific written comment on the subject water quality standards revisions proposed by the Water Quality Control Division on May 6, 1994. In general, we believe that adoption of the proposed revisions would improve the existing classifications and standards for the Animas River and tributaries, and that the Division should be commended for their efforts in support of this rulemaking.

We do have several specific comments that we would like to submit for consideration by the Commission. These comments are as follows:

1. CWA § 101(a)(2) Goal. EPA supports the proposed addition of aquatic life classifications for segments 3a, 3b, and 4a. We believe that these proposed revisions would establish needed water quality goals for these segments of the Animas River. Although achieving water quality levels necessary to support these proposed classifications will be a challenge (i.e., due to the extent of the existing contamination), we support adoption as consistent with the CWA § 101(a)(2) goal to strive for water quality levels sufficient to support "fishable and swimmable" water uses. As a practical matter, we note that the assigned classifications for the segments in question can be revisited in the future as additional data becomes available. We also note that for any segments without fishable (e.g., segments 2, 7, 8) and swimmable (e.g., segments 4a, 13a, and 15) standards, the federal water quality standards regulation requires the State either to adopt classifications consistent with the CWA § 101(a)(2) goal or to submit to EPA use attainability analyses (UAAs) demonstrating that goal uses are not attainable (40 CFR 131.10). We note that submission of a document similar in format to the rationale document prepared for the recent Rio Grande standards rulemaking would be an acceptable means of satisfying the UAA requirement.

2. Narrative Standard for Segments 2, 7, and 8. For a particular segment of the Animas River (segment 2), Cement Creek (segment 7), and Mineral Creek (segment 8), the Division has proposed a narrative standard. EPA believes that adoption of a narrative standard may be an appropriate approach for these segments due to the extent of existing contamination and the need to initiate clean-up actions. However, we recommend that the narrative



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standard be amended to establish as a goal *attainment of designated uses* for the segment (e.g., the agricultural use) and for downstream segments. This recommendation is based on the requirement for States to adopt criteria sufficient to protect the designated use (40 CFR 131.11(a)(1)), and for States to ensure that its water quality standards provide for the attainment and maintenance of the standards for downstream waters (40 CFR 131.10(b)).

3. CWA § 303(c)(2)(B). EPA recommends that aquatic life table value standards be added to segment 15 consistent with CWA § 303(c)(2)(B) requirements and the Commission's normal practice. The current numeric standards for this segment include only drinking water table value standards.

4. Ambient-Based Standards. Ambient-based standards are proposed for three segments (i.e., segments 3a, 3b, and 4a). We note that adoption of such standards is authorized only where elevated levels are the result of "natural or irreversible sources" of contaminants. We recommend that the Commission consider adopting instead table value standards for the substances in question with temporary modifications set equal to the existing ambient quality level. In light of the clean-up actions that are anticipated, we suggest that this approach would be appropriate in this case and consistent with the Commission's normal practice. If ambient-based standards are adopted, the submittal package will need to include a demonstration that the existing water quality is the result of natural or irreversible sources.

5. Segments on Southern Ute Reservation. EPA notes that two segments (i.e., segments 5 and 13b) extend onto the Southern Ute Indian reservation. EPA recommends that this matter be discussed with the Tribe and that, if possible, an agreement be reached that will satisfy the State and the Tribe. It is our understanding that the Southern Ute Indian Tribe is planning to apply to EPA for water quality standards program approval under CWA § 518(e).

EPA Region VIII appreciates the opportunity to provide comment on the subject proposed classifications and standards. We hope our comments will be useful to the Commission. If there are questions regarding our comments, please contact me at 293-1565, Bill Wuerthele, EPA Region VIII Water Quality Standards Coordinator, at 293-1586, or David Moon at 293-1561.

Sincerely,



Dale Vodehnal, Chief
Water Quality Branch

cc: David Holm, Director, Water Quality Control Division
Dennis Anderson, Water Quality Control Division